



## **Supreme Court of Kentucky**

State Capitol  
700 Capitol Avenue  
Frankfort, Kentucky 40601

### **Family Court Rules of Procedure and Practice Family Law Initiative**

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Summary Sheet • January 13, 2011

#### **OVERVIEW**

- Beginning in mid-2009, the Supreme Court of Kentucky undertook an initiative to create uniform family law rules of procedure for use statewide. This initiative involved the collaboration of judges and a variety of stakeholders from the family law community across the commonwealth.
- As with the Supreme Court Civil and Criminal Rules, the Supreme Court previewed a draft of these family rules in a public hearing at the Kentucky Bar Association Convention in June 2010. This was followed by a comment period ending July 31, 2010.
- The Supreme Court has approved the Family Court Rules of Procedure and Practice (FCRPP), which make significant changes and became effective Jan. 1, 2011.
- The FCRPP is not limited to the locations where Family Court divisions of Circuit Court exist. The FCRPP address all subject matter in the area of family law and these new rules will apply in Family Court and non-Family Court jurisdictions where family law cases are heard. The subject matter includes dissolution of marriage; spousal support and equitable distribution; child custody, support and visitation; paternity; adoption; termination of parental rights; domestic violence; dependency, neglect and abuse; and runaways, truancy and beyond control.
- The intention of the FCRPP is to promote uniformity in court rules, procedures and best practices for all of Kentucky's courts, attorneys, parties and community partners.
- The FCRPP are broken down by subject matter as follows:
  - Dissolution and Property Division
  - Custody, Shared Parenting, Visitation and Support
  - Domestic Violence
  - Paternity Actions
  - Dependency, Neglect or Abuse
  - Adoption and Termination of Parental Rights
  - Status Offenders

## **BENEFITS**

- The FCRPP were established in an effort to help ensure – as well as expedite – the safety, permanency and well-being of children and families.
- Kentucky's unified court system now has a set of uniform, best-practice family law rules by which it will operate.
- Attorneys and litigants will know what rules apply statewide.

## **IMPACT**

The new rules establish statewide, best-practice standards to ensure that practitioners, litigants and community partners, including the courts, are on a consistent playing field regardless of their location within the commonwealth. The items noted below are not all-inclusive, but they illustrate those changes with the greatest impact to courts, attorneys, parties and community partners.

**The FCRPP prevail over any local rule of court.** Judges will be revising their local rules to ensure they are in compliance with the FCRPP. They will be given until July 1, 2011, to submit revised local rules to the Supreme Court for review and approval.

### **FCRPP 2-5. Dissolution and Property Division**

- There is now a rule that provides direction when a case may be filed in multiple circuits. This rule provides which circuit controls.
- Disclosure statements are now mandatory in every circuit.
- Mediation *may* be ordered by the court after the initial court appearance. Previously, some jurisdictions mandated mediation prior to the parties appearing before the court.
- Divorce education *may* be ordered by the court in a particular case. Previously, some jurisdictions automatically mandated such education by local rule or a general order for all parties.
- In counties without Family Court,\* the FCRPP includes the applicable rules relating to domestic relations commissioners who continue to serve at the pleasure of the appointing judge. These rules were previously located in Civil Rule 53, which was repealed to make all rules relating to family law appear as one unified set of rules, the FCRPP.
- There is a mandatory re-opening fee of \$50 for domestic relations cases reopened after six months from entry of the decree for any modification.

\* Today Family Court serves 3.2 million citizens in 71 Kentucky counties. In the 49 counties without Family Court, the jurisdiction is divided between the Circuit Court and the District Court. In some of these circuits, domestic relations commissioners continue to hear cases subject to the direction of the circuit judge.

**FCRPP 6-9. Custody, Shared Parenting, Visitation and Support**

- If either parent intends to move with children from Kentucky to another state or more than 100 miles from the present residence, no relocation of the children may occur unless the court enters an order modifying the status quo.
- An appendix to the FCRPP includes Model Time-Sharing/Visitation Guidelines. This model is merely a guide and encourages courts to establish case-specific, time-sharing/visitation schedules based on the family's needs where an agreement cannot be reached by the parties. Local courts are not precluded from having a local model, but should not accept that model as a default schedule in any case where the parties fail to agree.
- Certain documents are required for temporary support, final support and/or any modifications.

**FCRPP 10-13. Domestic Violence**

- There will be a change in those jurisdictions where a summons and hearing were held regardless of the sufficiency of the relationship of the parties subject to the domestic violence proceeding and/or where there is a failure to state an act or threat of domestic violence. Absent sufficiency of relationship and a statement of an act or threat of domestic violence, a summons will not be issued.
- Contempt proceedings cannot be held against a petitioner for failure to appear at a hearing except for good cause on the record.
- Any party subject to contempt shall be represented by counsel, unless waived, or appointed counsel by the court if the party qualifies as an indigent.

**FCRPP 14-15. Paternity Actions**

- There is a mandatory re-opening fee of \$50 for paternity cases reopened after six months from entry of a paternity judgment for any modification to support, custody or visitation.
- Family Court jurisdictions are authorized to transfer any custody, visitation or support matter in a paternity action to their custody, visitation and support docket and the moving party is required to pay the difference in the court costs of the two types of actions.
- Genetic testing standards are now statewide.

**FCRPP 16-31. Dependency, Neglect or Abuse**

- FCRPP 16 mandates the use of Dependency, Neglect or Abuse forms prescribed by the Administrative Office of the Courts (AOC). These forms will ensure compliance with federal and state requirements, will act as a resource for ensuring the implementation of court performance measures and will lay the groundwork for accurate data collection.
- Verbal orders for removal of a child are not permitted. All orders shall be in writing on the requisite AOC form.
- A separate petition must be filed for each child where there is a sibling group. This will be a change in some jurisdictions where the Cabinet for Health and Family Services has traditionally filed one petition for a sibling group.
- Children under the age of 16 will receive a permanency progress review by the court no later than six months after the child is placed in foster care, in the home of a non-custodial parent or other person or agency, in addition to the annual permanency hearing required by law.

**FCRPP 32-36. Adoption and Termination of Parental Rights**

- A separate petition must be filed in these cases for each child where there is a sibling group.
- In uncontested adoptions, a hearing must be held within 30 days of the filing of a request for a final hearing.
- Immediately upon the filing of a petition for involuntary termination of parental rights, the petitioner shall obtain a pretrial date. If the parties aren't served, the pretrial date will be used as a case status review.
- If an order terminating parental rights is entered, there shall be a review hearing conducted 90 days from the date of entry of the order and thereafter as required by law.

**FCRPP 37- 44. Status Offenders**

- If the court designated worker determines that a status offense complaint meets the criteria for diversion and a diversion agreement is reached, a petition will not be filed.
- There are new forms that contain affidavits and other requisite information that must accompany a complaint filed by schools and parents. This affidavit and its requisite documents ensure that the court has all the information it needs to conduct thorough, informed hearings regarding the child subject to their jurisdiction.
- The judge is required to explain to the child on the record his or her rights and the charge and shall also provide a Notice of Juvenile Rights and Consequences for Status Offenders to the child.
- Best practice standards for informal adjustments are established.
- Detention criteria are established.

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